



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 25 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL #7009 1680 0000 7677 8176
RETURN RECEIPT REQUESTED

Mr. Scott Springer
Director of Oil and Protein Manufacturing
Incon Processing, LLC
970 Douglas Road
Batavia, Illinois 60510

Re: Notice of Violation
Compliance Evaluation Inspection
EPA ID No.: ILR 000 034 132

Dear Mr. Springer:

On January 28, 2015 a representative of the U.S. Environmental Protection Agency inspected the Incon Processing, LLC (Incon) facility located in Batavia, Illinois. As a large quantity generator of hazardous waste, Incon is subject to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (RCRA). The purpose of the inspection was to evaluate Incon's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste. A copy of the inspection report is enclosed for your reference.

Based on information provided by Incon, EPA's review of records pertaining to Incon, and the inspector's observations, EPA has determined that Incon has unlawfully stored hazardous waste without a permit or interim status as a result of Incon's failure to comply with certain conditions for a permit exemption under Ill. Admin. Code tit. 35 § 722.134(a)-(c) [40 C.F.R. § 262.34(a)-(c)]. EPA has identified the permit exemption conditions with which Incon was out of compliance at the time of the inspection in paragraphs 1-3, below.

Many of the conditions for a RCRA permit exemption are also independent requirements that apply to permitted and interim status hazardous waste management facilities that treat, store, or dispose of hazardous waste (TSD requirements). When a hazardous waste generator loses its permit exemption due to a failure to comply with an exemption condition incorporated from Ill. Admin. Code tit. 35 Part 725, the generator: (a) becomes an operator of a hazardous waste storage facility; and (b) simultaneously violates the corresponding TSD requirement. The exemption condition identified in paragraphs 1-3 are independent TSD requirements incorporated from Ill. Admin. Code tit. 35 Part 725. Accordingly, each failure of Incon to comply with these conditions is also a violation of the corresponding requirement in Ill. Admin. Code tit. 35 Part 725 [40 C.F.R. Part 265] (if the facility should have fully complied with the

requirements for interim status), or Ill. Admin. Code tit. 35 Part 724 [40 C.F.R. Part 264] (if the facility should have been permitted).

Finally, based on information provided by Incon, EPA has determined that Incon was not following the requirements related to universal waste management, as described in paragraph 4, below.

STORAGE OF HAZARDOUS WASTE WITHOUT A PERMIT OR INTERIM STATUS AND VIOLATIONS OF TSD REQUIREMENTS

At the time of the inspection, Incon was out of compliance with the following large quantity generator permit exemption conditions:

The permit exemption conditions identified below in paragraphs 1-3 are also independent TSD requirements violated by Incon:

Training

1. A large quantity generator of hazardous waste must have a program of classroom instruction or on-the-job training that teaches facility personnel to perform their duties in a way that ensures the facility's compliance with requirements of RCRA. This program must be directed by a person trained in hazardous waste management procedures, and must include instruction that teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. *See* Ill. Admin. Code tit. 35 §§ 722.134(a) (4) and 725.116(a) [40 C.F.R. §§ 262.34(a) (4) and 265.16(a)]. Facility personnel must successfully complete this training program within six months after the date of their employment or assignment to a facility or to a new position at a facility, and must take part in an annual review of this initial training thereafter. *See* Ill. Admin. Code tit. 35 §§ 722.134(a) (4) and 725.116(b) and (c) [40 C.F.R. §§ 262.34(a) (4) and 265.16(b) and (c)].

With respect to this training program, a large quantity generator must maintain the following documents and records at its facility:

- 1) The job title for each position at the facility related to hazardous waste management and the name of the employee filling each job;
- 2) A written job description for each position at the facility related to hazardous waste management;

35 §§ 703.121(a) and (b); 703.180(c); and 705.121(a) [40 C.F.R. §§ 270.1(c), and 270.10(a) and (d)].

UNIVERSAL WASTE

Universal Waste Requirement

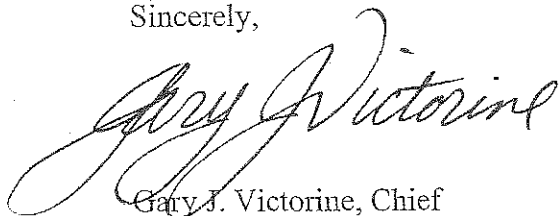
4. Under Ill. Admin. Code tit. 35 § 733.13d(1) [40 CFR 273.113(d)(1)], a small quantity handler of universal waste must manage any lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

At the time of the inspection, Incon was storing waste lamps in an open container. The container was immediately closed at the time of the inspection.

During the inspection, as observed by EPA, and after the inspection, as documented in January 27, 28 and 30, 2015 emails to EPA, you took certain actions to establish compliance with the above training, contingency plan, use and management of containers and universal waste storage requirements. Based on that information, EPA is not planning additional enforcement action at this time. This letter does not limit the applicability of the requirements evaluated, or of other federal or state statutes or regulations. EPA appreciates Incon's cooperation.

If you have any questions regarding this letter, please contact Ms. Sheila Burrus, of my staff, at 312-886-3587 or at burrus.sheila@epa.gov.

Sincerely,



Gary J. Victorine, Chief
RCRA Branch

Enclosure

cc: Todd Marvel, Illinois EPA, (todd.marvel@illinois.gov)

3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management; and

4) Records that document that the training or job experience described above has been given to and completed by facility personnel. *See* Ill. Admin. Code tit. 35 §§ 722.134(a) (4) and 725.116(d) [40 C.F.R. §§ 262.34(a) (4) and 265.16(d)].

At the time of the inspection, Incon did not have and was unable to provide in response to a request a written description of the type and amount of introductory and continuing training given to employees with duties related to hazardous waste management.

At the time of the inspection, Incon did not have and was unable to provide in response to a request a written description for each position related to hazardous waste management at the facility.

Contingency Plan

2. In order to avoid the need for a hazardous waste storage permit, a large quantity generator must submit a copy of its contingency plan and revisions to the plan to the local police department, fire department, hospital and state and local emergency response teams that may be called upon to provide emergency services. *See*, 35 IAC §§ 722.134(a) (4) and 725.153(b) [40 CFR §§ 262.34(a) (4) and 265.53(b)].

At the time of the inspection, Incon had not submitted a copy of the facility contingency plan to the local police department, fire department, hospital and state and local emergency response teams that may be called upon to provide emergency services.

Use and Management of Containers

3. A large quantity generator must always keep a container holding waste closed during storage, except when it is necessary to add or remove waste. *See*, 35 IAC §§ 722.134(c)(1)(A) and 725.273(a) [40 C.F.R. §§ 262.34(c)(1) (i) and 265.173(a)].

At the time of the inspection, one 55-gallon satellite container of mixed solvent in the staging area was open. However, the container was immediately closed during the inspection.

Summary: By failing to comply with the conditions for a permit exemption, above, Incon became an operator of a hazardous waste storage facility, and was required to obtain an Illinois hazardous waste storage permit. Incon failed to apply for such a permit. Incon's failure to apply for and obtain a hazardous waste storage permit violated the requirements of Ill. Admin. Code tit.